

SENATE JOURNAL
OF THE
IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE

FIFTY-SECOND LEGISLATIVE DAY
WEDNESDAY, MARCH 2, 2005

Senate Chamber

President Risch called the Senate to order at 10 a.m.

Roll call showed all members present except President Pro Tempore Geddes, absent and formally excused by the Chair; and Senators Andreason, Cameron, Coiner, Keough, Langhorst, Noble, Pearce, and Stegner, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by April Palmer, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Cameron and Stegner were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 1, 2005, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Andreason, Noble, and Pearce were recorded present at this order of business.

March 2, 2005

The JUDICIARY AND RULES Committee reports that **S 1169** and **S 1170** have been correctly printed.

DARRINGTON, Chairman

S 1169 was referred to the Resources and Environment Committee.

S 1170 was referred to the Education Committee.

March 1, 2005

The EDUCATION Committee reports out **S 1017** with the recommendation that it do pass.

GOEDDE, Chairman

S 1017 was filed for second reading.

March 1, 2005

The EDUCATION Committee reports out **S 1148** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

GOEDDE, Chairman

There being no objection, **S 1148** was referred to the Fourteenth Order of Business, General Calendar.

March 1, 2005

The EDUCATION Committee reports out **SJM 106** with the recommendation that it do pass.

GOEDDE, Chairman

SJM 106 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 1, 2005

The HEALTH AND WELFARE Committee reports out **H 41** with the recommendation that it do pass.

COMPTON, Chairman

H 41 was filed for second reading.

March 1, 2005

The TRANSPORTATION Committee reports out **H 144** and **H 181** with the recommendation that they do pass, and with the recommendation that they be placed on the Consent Calendar.

BRANDT, Chairman

H 144 and **H 181** were filed for second reading.

March 1, 2005

The TRANSPORTATION Committee reports out **S 1130** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

BRANDT, Chairman

There being no objection, **S 1130** was referred to the Fourteenth Order of Business, General Calendar.

March 1, 2005

The TRANSPORTATION Committee reports out **S 1129**, **S 1131**, and **HCR 11** with the recommendation that they do pass.

BRANDT, Chairman

S 1129 and **S 1131** were filed for second reading.

HCR 11 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 1, 2005

The COMMERCE AND HUMAN RESOURCES Committee reports out **HCR 13** and **HCR 14** with the recommendation that they do pass.

ANDREASON, Chairman

HCR 13 and **HCR 14** were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 1, 2005

The COMMERCE AND HUMAN RESOURCES Committee reports out **H 121** and **H 62** with the recommendation that they do pass.

ANDREASON, Chairman

H 121 and **H 62** were filed for second reading.

March 1, 2005

The COMMERCE AND HUMAN RESOURCES Committee reports out **H 122** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

ANDREASON, Chairman

There being no objection, **H 122** was referred to the Fourteenth Order of Business, General Calendar.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

March 1, 2005

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Lawrence V. Armacost of New Meadows, Idaho, was appointed as a member of the Idaho

Water Resource Board to serve a term commencing February 23, 2005, and expiring January 1, 2009.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Resources and Environment Committee.

The Senate advanced to the Ninth Order of Business.

Messages from the House

Senators Keough and Langhorst were recorded present at this order of business.

March 1, 2005

Mr. President:

I transmit herewith **H 262**, **H 155**, **H 204**, **H 205**, **H 206**, **H 207**, **H 125**, and **H 190** which have passed the House.

JUKER, Chief Clerk

H 262, **H 155**, **H 204**, **H 205**, **H 206**, **H 207**, **H 125**, and **H 190** were filed for first reading.

March 1, 2005

Mr. President:

I return herewith Enrolled **S 1032** and **S 1033** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1032** and **S 1033** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced the Resources and Environment Committee report relative to the Gubernatorial appointment of William C. Bernt was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Burtenshaw, seconded by Senator Stennett, the Gubernatorial appointment of William C. Bernt as a member of the Idaho Outfitters and Guides Licensing Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

On request by Senator Davis, granted by unanimous consent, the Resources and Environment Committee report, relative to the Gubernatorial appointment of C. Wayne Hunsucker, retained its place on the calendar.

On request by Senator Goedde, granted by unanimous consent, **SCR 114** and **SCR 115** were referred to the Education Committee.

The President announced that **SJM 107** was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Burkett, seconded by Senator Werk, **SJM 107** was adopted by voice vote, title was approved, and the memorial ordered transmitted to the House.

Senator Coiner was recorded present at this order of business.

The President announced that **HJM 3** was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Marley, seconded by Senator Malepeai, **HJM 3** was adopted by voice vote, title was approved, and the memorial ordered returned to the House.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

S 1171

BY FINANCE COMMITTEE

AN ACT

RELATING TO FISH AND GAME; REPEALING SECTION 36-114, IDAHO CODE; AMENDING SECTION 36-115, IDAHO CODE, TO PROVIDE FOR THE NONEXPENDABLE BIG GAME DEPREDATION FUND, TO PROVIDE FOR THE TRANSFER OF A SPECIFIED AMOUNT FROM THE BIG GAME SECONDARY DEPREDATION ACCOUNT TO THE NONEXPENDABLE BIG GAME DEPREDATION FUND, TO PROVIDE FOR THE DEPOSIT AND DISTRIBUTION OF MONEYS FROM THE NONEXPENDABLE BIG GAME DEPREDATION FUND, TO PROVIDE THAT THE BIG GAME SECONDARY DEPREDATION ACCOUNT SHALL BE KNOWN AND REFERRED TO AS THE EXPENDABLE BIG GAME DEPREDATION FUND, TO PROVIDE FOR THE DEPOSIT AND DISTRIBUTION OF MONEYS FROM THE EXPENDABLE BIG GAME DEPREDATION FUND, TO REVISE TERMINOLOGY, TO REQUIRE THE STATE CONTROLLER TO MAKE SPECIFIED ANNUAL REPORTS RELATING TO THE INTEREST EARNINGS AND THE AVAILABILITY OF MONEYS IN THE EXPENDABLE BIG

GAME DEPREDATION FUND, TO PROVIDE THAT FUNDS TRANSFERRED FROM THE EXPENDABLE BIG GAME DEPREDATION FUND TO THE FISH AND GAME SET-ASIDE ACCOUNT AND THE ANIMAL DAMAGE CONTROL ACCOUNT SHALL BE SPENT PURSUANT TO RESPECTIVE APPROPRIATIONS FOR THOSE ACCOUNTS AND TO PROVIDE CONDITIONS AND REQUIREMENTS RELATING TO PAYMENTS FOR DAMAGES FROM THE EXPENDABLE BIG GAME DEPREDATION FUND; AMENDING SECTION 36-122, IDAHO CODE, TO PROVIDE FOR PAYMENT OF CERTAIN EXPENSES FROM THE EXPENDABLE BIG GAME DEPREDATION FUND; AMENDING SECTION 36-1108, IDAHO CODE, TO REVISE CODE REFERENCES, TO PROVIDE THAT OWNERS OR LESSEES MUST ALLOW HUNTERS CERTAIN ACCESS TO THEIR PROPERTY OR THROUGH THEIR PROPERTY TO PUBLIC LANDS PROVIDED IT DOES NOT IMPACT ON THEIR OPERATIONS, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AND TO PROVIDE FOR THE TRANSFER OF APPROPRIATED AND ENCUMBERED MONEYS AND OUTSTANDING CLAIMS FROM THE BIG GAME PRIMARY DEPREDATION ACCOUNT TO THE EXPENDABLE BIG GAME DEPREDATION FUND.

S 1171 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 262, by Appropriations Committee, was introduced, read the first time at length, and referred to the Finance Committee.

H 155, H 204, H 205, H 206, and H 207, by Judiciary, Rules, and Administration Committee, introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

H 125, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 190, by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1156, S 1121, and S 1134, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

S 1099 and S 1138, by Resources and Environment Committee, were read the second time at length and filed for third reading.

H 42, H 43, and H 45, by Health and Welfare Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1036, as amended, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Davis, Gannon, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Andreason, Darrington, Geddes. Total - 3.

Total - 35.

Whereupon the President declared **S 1036**, as amended, passed, title was approved, and the bill ordered transmitted to the House.

S 1143, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Compton and Keough arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Broadsword, Bunderson, Burkett, Coiner, Compton, Corder, Darrington, Gannon, Kelly, Keough, Langhorst, Malepeai, Marley, McGee, Schroeder, Stegner, Stennett, Werk. Total - 19.

NAYS--Brandt, Burtenshaw, Cameron, Davis, Goedde, Hill, Jorgenson, Little, Lodge, McKenzie, Noble, Pearce, Richardson, Sweet, Williams. Total - 15.

Absent and excused--Geddes. Total - 1.

Total - 35.

Whereupon the President declared **S 1143** passed, title was approved, and the bill ordered transmitted to the House.

S 1125 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Corder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Senator Compton requested unanimous consent that **S 1125** be referred to the Fourteenth Order of Business for amendment.

Senator Cameron objected.

Moved by Senator Compton, seconded by Senator Stennett, that **S 1125** be referred to the Fourteenth Order of Business for amendment.

Roll call vote was requested by Senators Sweet, Keough, and Lodge.

Senator Compton withdrew his motion, with the consent of the second.

The question being, "Shall **S 1125** pass?"

Roll call resulted as follows:

AYES--Andreason, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Corder, Darrington, Davis, Gannon, Goedde, Hill, Jorgenson, Keough, Langhorst, Little, Lodge, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Sweet, Werk, Williams. Total - 28.

NAYS--Coiner, Kelly, Malepeai, Marley, Stennett. Total - 5.

Absent and excused--Brandt, Geddes. Total - 2.

Total - 35.

Whereupon the President declared **S 1125** passed, title was approved, and the bill ordered transmitted to the House.

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:15 p.m. until the hour of 4:30 p.m. of this day.

RECESS AFTERNOON SESSION

The Senate reconvened at 4:30 p.m., pursuant to recess, President Risch presiding.

Roll call showed all members present except President Pro Tempore Geddes, absent and formally excused by the Chair; and Senators Bunderson, Burtenshaw, Cameron, Goedde, Keough, Little, Malepeai, Marley, Schroeder, and Stegner, absent and excused.

Prior to recess the Senate was at the Thirteenth Order of Business, Third Reading of Bills.

Senators Cameron, Goedde, Little, Marley, Stegner, and Stennett were recorded present at this order of business.

S 1161 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Corder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Moved by Senator Burkett, seconded by Senator Stennett, that **S 1161** be referred to the Fourteenth Order of Business for amendment.

Roll call vote was requested by Senators Burkett, Marley, and Werk.

Roll call resulted as follows:

AYES--Burkett, Coiner, Compton, Darrington, Gannon, Kelly, Langhorst, Malepeai, Marley, Schroeder, Stennett, Werk. Total - 12.

NAYS--Andreason, Brandt, Broadsword, Cameron, Corder, Davis, Goedde, Hill, Jorgenson, Little, Lodge, McGee, McKenzie, Noble, Pearce, Richardson, Stegner, Sweet, Williams. Total - 19.

Absent and excused--Bunderson, Burtenshaw, Geddes, Keough. Total - 4.

Total - 35.

Whereupon the President declared that the motion did not prevail.

The question being, "Shall **S 1161** pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Cameron, Corder, Davis, Goedde, Hill, Jorgenson, Little, Lodge, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Sweet, Williams. Total - 20.

NAYS--Burkett, Coiner, Compton, Darrington, Gannon, Kelly, Langhorst, Malepeai, Marley, Stennett, Werk. Total - 11.

Absent and excused--Bunderson, Burtenshaw, Geddes, Keough. Total - 4.

Total - 35.

Whereupon the President declared **S 1161** passed, title was approved, and the bill ordered transmitted to the House.

Having voted on the prevailing side by which **S 1161** passed the Senate, Senator Davis served notice that he may on the next legislative day move for reconsideration of the vote.

S 1161 was ordered held at the desk.

Senator Keough was recorded present at this order of business.

S 1119 was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Compton and Stennett arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Cameron, Coiner, Compton, Darrington, Davis, Gannon, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 30.

NAYS--Burkett, Corder. Total - 2.

Absent and excused--Bunderson, Burtenshaw, Geddes. Total - 3.

Total - 35.

Whereupon the President declared **S 1119** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 5:25 p.m. until the hour of 10 a.m., Thursday, March 3, 2005.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary